AIR DISTRICTS' AUTHORITY TO CONSTRUCT AND PERMIT TO OPERATE

OVERVIEW

The U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (ARB) have established standards for ambient air quality designed to protect public health and welfare. Federal and State standards exist for sulfur dioxide, nitrogen dioxide, ozone, particulate matter smaller than 10 microns in diameter (PM10), and carbon monoxide, among others. Air quality is regulated through air pollution control districts (APCDs) and air quality management districts (AQMDs) on a county and regional level. The air districts issue permits and monitor new and modified sources of air pollution to ensure that emissions from these sources will comply with national, State, and local emission limits and will not interfere with the attainment and maintenance of established standards for ambient air quality.

The ARB and individual air districts have established emission limits for specific types of stationary equipment to ensure that the ambient standards are achieved and maintained. APCDs and AQMDs issue two types of air quality permits: the preconstruction permit, called an authority to construct (ATC), and the permit to operate (PTO). In most cases, an ATC and a PTO are required for any new stationary source.

WHO NEEDS TO COMPLY?

For stationary sources, an ATC and a PTO must be obtained from the air district that has jurisdiction in the area where the source is located. Most air districts in California have fugitive dust rules that apply to construction activities. Although permits generally are not required, specific procedures must be followed to minimize the generation of construction-related dust. For CALFED actions, stationary-source emissions are most likely to come from internal combustion engines used to power pumps. Other emissions that could be generated by CALFED projects include PM10 emissions associated with construction activities.

WHO IS EXEMPT?

Each air district determines which emission sources and levels have an insignificant effect on air quality and are therefore exempt from permit requirements. Examples of activities that may be exempt from permitting requirements are:

- the use of combustion equipment that operates at less than 2 million British thermal units per hour, fired on natural gas or liquefied petroleum gas; or
- the use of stationary piston-type internal combustion engines with 50 brake-horsepower or less.

HOW LONG DOES THE APPROVAL PROCESS TAKE?

The amount of time needed for permit processing varies with many factors, including the type and complexity of the permit, the permitting authority, and the level of controversy associated with the project. Appeals filed after permits are issued will also affect processing time. Local regulations often specify the time frame for permit issuance; California law requires agencies to issue construction permits within 180 days. The amount of time needed to process PTOs depends on agency-specific time frames. Processing will normally take 1–2 months for the types of air permits that would be required for CALFED projects.

WHAT INFORMATION DOES THE APPLICANT NEED TO PROVIDE?

Each air district uses its own application forms for permits. Applicants generally must provide the following for an ATC application:

- **a** description of any proposed business and industrial process, including:
 - the types of material to be used, the products manufactured, and the wastes generated;
 - the type of air pollution control equipment to be used, including design, size, or anticipated degree of control; and
 - the types of fuels to be used, their rates of use, and their sulfur and nitrogen content;
- a detailed description of the equipment to be used, including the size and type, for the entire unit or major part of each unit;
- identification numbers of existing air district permits, if any;
- operating schedules for emission sources by hours per day, days per week, and weeks per year, including preventive maintenance schedules; and
- a description of how the applicant intends to comply with the requirements of CEQA (typically, a final environmental impact report is needed before the air district considers an application to be complete).

WHAT IS THE FEE?

Each air district sets its own filing fees for the ATC application. For typical CALFED projects in major metropolitan areas, applicants would pay \$100–\$1,000. Air districts also charge annual PTO fees, which are generally greater than the filing fee and are based on the size of the project.

WHAT DOES THE APPLICATION AND EVALUATION PROCESS ENTAIL?

Each air district has its own procedures for evaluating permit applications. Applicants should direct inquiries about the application process to the appropriate county or regional air district. In general, the following steps are required to obtain an ATC:

- 1. The local air district staff reviews the application to determine whether it is complete. The application may be returned to the applicant with a request for additional information.
- 2. When the air district accepts the application as complete, the staff evaluates it for conformance with applicable rules, including district, State, and national emission limitations.
- 3. The staff calculates the emissions from the new source or the increase in emissions that would result from modification of a source and determines whether those emissions would cause or contribute to violations of any State or federal ambient standards.
- 4. After completing the evaluation, the air pollution control officer (APCO) decides whether to approve, conditionally approve, or disapprove an ATC.
- 5. The APCO must consider all written comments and make a final decision within 180 days after accepting an application as complete. Denials may be appealed to the district's hearing board within 10 days of the denial notice. The hearing board conducts a public hearing and accepts testimony. The hearing board must reach a decision within 30 days after it receives the appeal unless the applicant and the air district agree to additional time.

An applicant may apply for a PTO only after obtaining an ATC from the air district and completing the construction or modification according to the terms of the ATC. Generally, the following steps are necessary to obtain a PTO:

- 1. The air district evaluates an application for a PTO to determine whether the applicant constructed the facility according to the conditions of the ATC.
- 2. The district conducts an inspection of the facility, or directs the applicant to have one conducted, to determine whether the facility meets the appropriate criteria.
- 3. If the facility is acceptable, the APCO issues the PTO. If the APCO denies the PTO, the applicant may appeal the decision to the hearing board within 10 days of the denial notice. The hearing board conducts a public hearing and accepts testimony. The hearing board must reach a decision within 30 days after it receives the appeal, unless the applicant and the air district agree to additional time.

DOES THIS PROCESS TRIGGER THE NEED FOR COMPLIANCE WITH OTHER REGULATIONS?

Typically, CEQA compliance must be completed before an air district issues an ATC. Generally, projects that require a PTO will have attained CEQA compliance; however, CEQA compliance is not required for a PTO to be issued.

WHAT ARE THE OPPORTUNITIES FOR FACILITATING COMPLIANCE WITH THIS PROCESS?

The following step is recommended to simplify and streamline the air quality permitting process for CALFED actions.

■ Coordinate early with the air district and the permitting engineer assigned to the project. The applicant should contact the air district where a project would be implemented and discuss potential air emissions with the permitting engineer assigned to the project as early as possible. The permitting engineer can identify which air quality regulations would apply to the project and help determine the best approach to project design to minimize air quality impacts. Consultation with the air district may provide opportunities for redesigning the project to avoid the need for permitting.

